



ACH Notice

Date: 26 November, 2007

Key topics

1. Fimat Australia Pty Ltd

Reading List

Client Advisers
Compliance Managers
ASTC Participants
Operations Managers (back office)
Share Registries
ACH Participants

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ACH PARTICIPANT NOTICE

Disciplinary Matters

The ACH Disciplinary Tribunal ("the Tribunal") has determined the following:

Fimat Australia Pty Ltd ("Fimat") has been fined \$5,000 plus GST for contravening ACH Clearing Rule 12.17.1 due to a net clearing obligation of \$2108.18 not being paid to ACH on 10 April 2007 by the time and in the manner specified in the ACH Clearing Rules and Procedures.

Without admitting or denying ACH's allegations, Fimat did not contest the contravention before the Tribunal.

In determining penalty, the Tribunal also took into account the following matters:

- (a) The circumstances and facts of the matter;
- (b) Fimat had available funds and authorised the Net Payment Amount of \$2108.18 to ACH via EXIGO at approximately 10.02am on 10 April 2007, however, this payment was not settled until 10.37am;
- (c) Fimat commenced and internal investigation into the matter and self reported the contravention to ASX;
- (d) Fimat cooperated in the investigation of the matter and elected not to contest the matter; and
- (e) Fimat has implemented additional measures to ensure timely payments to ACH in the future.

The circumstances of the matter are detailed as follows:

Fimat was scheduled to pay \$2,108.18 ("the Net Payment Amount") to ACH on its futures ledger by 10.30am on 10 April 2007.

ACH sent Fimat a Daily Financial Statement outlining its clearing obligations and entered the Net Payment Amount into EXIGO (Austraclear) by approximately 9.30am on 10 April 2007.

At 10.02am on 10 April 2007, Fimat authorised payment of the Net Payment Amount in EXIGO. This amount was matched but not settled by Fimat's appointed bank. At 10.04am, Fimat sent an email to its appointed bank outlining its ACH margin requirements through EXIGO, which inter alia stated "please ensure this payment is authorised prior to 10.30am."

At 10.23am on 10 April 2007, ACH contacted Fimat by telephone to advise that the Net Payment Amount remained matched but not settled by its appointed bank. Fimat subsequently repeatedly contacted personnel at its appointed bank to arrange settlement of the Net Payment Account.

At 10.37am on 10 April 2007, the Net Payment Amount was settled; however, this was after the deadline of 10.30am pursuant to the ACH Clearing Rules and Procedures.

Following this incident, Fimat has implemented additional measures with its appointed bank to ensure timely payments to ACH in the future.

The Tribunal accepts that the responsibility to ensure payment of the net clearing obligations to the ACH rests with the ACH Participant and a contravention of ACH Clearing Rule 12.17.1 is a matter of concern as the stability of the ACH Clearing System is of fundamental importance to the Clearing Facility provided by the ACH. A failure to pay the net clearing obligation at the time and on the date on which it is due and payable has the potential to adversely affect the position of the ACH as the central counterparty and the integrity of the Clearing Facility provided by ACH.